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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,879	04/05/2001	Daniel Patrick Connors	Y OR920000070	3754

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MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC  
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VIENNA, VA 22182-3817

EXAMINER
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SHEIKH, ASFAND M

ART UNIT	PAPER NUMBER
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3627

MAIL DATE	DELIVERY MODE
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04/15/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/825,879	<b>Applicant(s)</b> CONNORS ET AL.	
	<b>Examiner</b> Asfand M. Sheikh	<b>Art Unit</b> 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2008 by the BPAI.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 21-27 is/are pending in the application.
- 4a) Of the above claim(s) 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Notice to Applicant***

The examiner examining the instant application has changed.

Please note, the new examiner is Asfand M. Sheikh, the group art unit has not changed.

The examiner notes the instant application is being re-opened after the board decision in light of new grounds of rejection being made for the pending claims. Authorization for the re-opening is given by the Group Director as demonstrated by her signature at the end of this action.

The examiner notes claims 1-13 and 21-26 are pending for examination. Claims 14-20 are cancelled and claim 27 is withdrawn.

***Response to Arguments***

Applicant's arguments with respect to claim 1-13 and 21-26 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-13 and 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swartzel et al. (US 6,552,663 B2) in view of Johnson (US 6,624,757 B1).

Claims 1 and 13

Swartzel discloses a system for restocking and repricing merchandise (see at least, col. 3, lines 51-52: the examiner notes updating the display information (e.g. with price changes) and col. 9, lines 9-24: the examiner notes the LED (e.g. tag) display may change to flashing "here" to assist during stocking operations), comprising: a shelf comprising a plurality of illuminating device for performing a plurality of illuminating functions (see at least, col. 3, lines 16-22: the examiner notes a plurality of LED (e.g. display tag) disposed along the front rails of display shelves and col. 9, lines 9-24: the examiner notes the LED (e.g. display tag) display may change to flashing "here" to assist during stocking operations); and a hand-held unit which remotely causes said illuminating device to illuminate under a predetermined condition (see at least, col.

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9, lines 9-24: the examiner notes the LED (e.g. tag) display may change to flashing "here" to assist during stocking operations), wherein said illuminating device corresponds respectively to a shelf location (see at least, col. 9, lines 9-24: the examiner notes the LED (e.g. tag) display may change to flashing "here" to assist during stocking operations).

Swartzel fails to disclose a shelf label holder comprising a singular illuminating device with a plurality of illuminating sections.

However, Johnson discloses a shelf label holder comprising a singular illuminating device with a plurality of illuminating sections (see at least, col. 2, lines 28-30; and col. 3 line 54-col. 4, line 12: the examiner notes the display strip is an LED display with adjustable display sections and for example in FIG. 2C: the examiner notes the side view of a shelf with an attached display strip).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Swarzel's illuminating shelf to include a shelf label holder comprising a singular illuminating device with a plurality of illuminating sections as taught by Johnson. One of ordinary skill in the art would have been motivated to combine the teachings in order provide a product information and price

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display device for a retail product shelves which does not have to be relocated as products are relocated within the store (see at least, Johnson, col. 1, lines 55-58).

#### Claim 2

Swartzel discloses further comprising: a host controller for storing merchandise data and planogram data (see at least, col. 7, line 65-col. 8, line 1: the examiner notes the system controller (TSC) contains a planogram which identifies position of each product within the store), processing said data and remotely controlling an operation of said hand-held unit and said shelf label holder (see at least, col. 3, line 37-43: the examiner notes the TSC controls LED (e.g. display tag) information and col. 5, lines 55-64: the examiner notes the TSC can communicate with a portable scanner/portable wireless terminal).

#### Claim 3

Swartzel discloses wherein a shelf control unit for controlling an illumination of said illuminating device (see at least, co. 9, lines 9-33: the examiner notes the TSC sends a signal for illumination of the illuminating device).

Swartzel fails to disclose a shelf label holder comprising a singular illuminating device with a plurality of illuminating sections.

However Johnson discloses a shelf label holder comprising a singular illuminating device with a plurality of illuminating sections (see at least, col. 3 line 54-col. 4, line 5: the examiner notes the display strip is an LED display with adjustable display sections and FIG. 2C: the examiner notes the side view of a shelf with an attached display strip).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Swatzels's illuminating shelf to include a shelf label holder comprising a singular illuminating device with a plurality of illuminating sections as taught by Johnson. One of ordinary skill in the art would have been motivated to combine the teachings in order provide product information and price display device for retail product shelves which does not have to be relocated as products are relocated within the store (see at least, Johnson, col. 1, lines 55-58).

Claim 4

Swartzel discloses wherein an identifying section of said shelf label is inserted into said shelf control unit (see at least, col. 3, lines 36-54: the examiner notes the loop within the TSC would be range of control and include any identifying tag within the range of control for the TSC therefore this would be the inserted label into the shelf control unit).

Claim 5, 6, 7, and 9

Swartzel discloses wherein said shelf control unit comprises: a receptacle for receiving said identifying section of said shelf label see at least, col. 3, lines 36-54: the examiner notes the loop within the TSC would be range of control and include any identifying tag within the range of control for the TSC therefore this would be the inserted label into the shelf control unit); and a transceiver for transmitting signals to said host controller and said hand held unit and receiving signals from said host controller and said hand held unit (see at least, col. 9, lines 9-33: the examiner notes the communication back and for between LED (e.g. display tag) tag, hand-held unit, and TSC for finding the location), a display device for displaying merchandise data and planogram data (see

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at least, col. 9, lines 33-32: the examiner notes a display on the hand-held device for merchandise/planogram data (see at least, col. 9, lines 58-65)), at least one of a bar code scanner and a keypad for inputting said data into said hand held unit (see at least, col. 9, lines 9-33: the examiner notes a UPC is scanned); and a memory for storing data (see at least, col. 5, lines 55-64: the examiner notes a portable wireless terminal would contain memory).

#### Claim 8

Swartzel discloses wherein said merchandise information comprises vendor information data and inventory data (see at least, col. 4, line, 64-col. 5, line 12: the examiner notes UPC description and general inventory information), and wherein said planogram data comprises correct merchandise shelf locations (see at least, col. 9, lines 9-67).

#### Claim 10

Swartzel discloses wherein said identifying section comprises at least one of a bar code, a radio frequency identification (RFID) tag and a magnetic identification tag (col. 9, line 9-33: the examiner notes the UPC would be a bar code).

Claim 11

Swartzel discloses wherein said illuminating section comprises at least one of a light-emitting diode, an organic light emitting diode, a liquid crystal display element, a plasma display element, an incandescent light bulb and a light pipe (see at least, col. 9, line 9-33).

Claim 12

Swartzel discloses wherein said signals comprise at least one of a radiowave signal and infrared signal (see at least, col. 9, line 9-33: examiner notes RF is a radio wave).

Claim 21

Swartzel discloses wherein said illuminating device is formed along a longitudinal edge of said shelf label holder (see at least, FIG 1: "20").

Claim 22

Swartzel discloses wherein said illuminating device comprises a plurality of light-emitting diodes (LEDs) (see at least, col. 9, line 9-33).

Claim 23

Swartzel discloses wherein said shelf label holder is connected to one of an upper and lower surface of a shelf for displaying said items of merchandise (see at least, FIG. 1).

Claim 24, 25, and 26

Swartzel discloses wherein said locations on said shelf correspond respectively to items of merchandise, and wherein an illuminating section of said plurality of illuminating sections is individually illuminated to indicate a location on said shelf which corresponds to said illuminating section, for one of restocking and repricing of an item of merchandise which corresponds to said location on said shelf (see at least, col. 3, lines 51-52: the examiner notes updating the display information (e.g. with price changes) and col. 9, lines 9-67).

Swartzel fails to disclose a shelf label holder comprising a singular illuminating device with a plurality of illuminating sections.

However Johnson discloses a shelf label holder comprising a singular illuminating device with a plurality of illuminating sections (see at least, col. 3 line 54-col. 4, line 5: the examiner notes the display strip is an LED display with

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adjustable display sections and FIG. 2C: the examiner notes the side view of a shelf with an attached display strip).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Swartzel's illuminating shelf to include a shelf label holder comprising a singular illuminating device with a plurality of illuminating sections as taught by Johnson. One of ordinary skill in the art would have been motivated to combine the teachings in order provide product information and price display device for retail product shelves which does not have to be relocated as products are relocated within the store (see at least, Johnson, col. 1, lines 55-58).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asfand M. Sheikh whose telephone number is (571)272-1466. The examiner can normally be reached on M-F 8a-4:30p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan M. Zeender can be reached on (571) 272-6790. The fax phone number for the

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organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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March 31, 2008